

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRIAN RADECKI
609 N. Second Street
La Crescent, MN 55947

-and-

JURY TRIAL DEMANDED

AMY RADECKI
609 N. Second Street
La Crescent, MN 55947

Case Number: 20-CV-814

Plaintiffs,

-vs-

NATIONAL FIRE & MARINE INSURANCE COMPANY,
Omaha, NE

IRONSHORE SPECIALTY INSURANCE COMPANY,
Boston, MA

NATIONAL FIRE & MARINE INSURANCE COMPANY
AS ADMINISTERED BY MEDPRO GROUP COMPANY,
Omaha, NE

GUNDERSEN CLINIC PROFESSIONAL
LIABILITY INSURANCE PLAN,
1900 South Avenue
La Crosse, WI 54601

GUNDERSEN CLINIC LTD.,
1900 South Avenue
La Crosse, WI 54601

and

KATHERINE DAHL
The Psychology Center
7617 Mineral Point Road
Madison, WI 53717

Defendants.

PLAINTIFFS' FIRST AMENDED COMPLAINT

Plaintiffs, by and through their attorneys hereby allege as their First Amended Complaint against the above-named defendants as follows:

PARTIES

1. Plaintiff Brian Radecki lives at 609 North Second Street in La Crescent, Minnesota and at all times relevant hereto resided within the State of Minnesota.

2. Plaintiff Amy Radecki is the wife of Brian Radecki, lives at 609 North Second Street in La Crescent, Minnesota and at all times relevant hereto resided within the State of Minnesota.

3. Defendant Katherine Dahl is a licensed clinical social worker currently practicing at 7617 Mineral Point Road in Madison, Wisconsin and previously practicing at Gundersen Lutheran Medical Center, Inc. in La Crosse Wisconsin and at all times relevant hereto resided within the State of Wisconsin.

4. Gundersen Clinic Ltd. is, on information and belief, a Wisconsin limited liability Corporation with its principal place of business located at 1900 South Avenue in La Crosse, Wisconsin. (hereafter referred to as "Clinic")

5. Defendant National Fire & Marine Insurance Company is, on information and belief, headquartered in Omaha, Nebraska and is a first line excess insurer for the negligent and/or otherwise wrongful acts on the part of defendants Clinic and Dahl alleged herein.

6. Defendant Ironshore Specialty Insurance Company is, on information and belief, headquartered in Boston, Massachusetts, and is a second line excess insurer for the negligent and/or otherwise wrongful acts on the part of defendants Clinic and Dahl alleged herein.

7. Defendant National Fire & Marine Insurance Company as administered by Medpro Group Company is, on information and belief, headquartered in Omaha, Nebraska and is a third line excess insurer for the negligent and/or otherwise wrongful acts on the part of defendants Clinic and Dahl alleged herein.

8. Defendant Gundersen Clinic Professional Liability Insurance Plan is, on information and belief, headquartered in La Crosse, Wisconsin and is a direct insurer for any liability arising out of the negligent and/or wrongful acts of the defendants Dahl and Gundersen Clinic Ltd. as alleged in this complaint.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, as there is complete diversity of citizenship between plaintiffs and defendants and the amount in controversy exceeds \$75,000.00.

10. Venue is proper in the Western District of Wisconsin pursuant to 28 U.S.C. § 1391.

11. This Court has personal jurisdiction over defendants because defendants conduct substantial business in Wisconsin and because this lawsuit arises out of defendants' acts of alleged negligence that occurred in La Crosse, Wisconsin.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

12. Plaintiffs Brian and Amy Radecki are the parents of Lillian Radecki, who was born on January 23, 2002.

13. In April of 2014, at the age of 12, Lillian Radecki began to attend therapy with Katherine Dahl, a licensed clinical social worker.

14. Lillian Radecki's therapy continued periodically with Katherine Dahl over the next four years and addressed a number of different issues.

15. During the time that therapy was administered by Katherine Dahl, Lillian Radecki came to believe that she was sexually abused by Brian Radecki on one occasion during her earlier childhood.

16. In October of 2017 Lillian Radecki, at the age of 15, accused Brian Radecki of sexually abusing her on one occasion in her earlier childhood.

17. Lillian Radecki's memory of sexual abuse by Brian Radecki is a false memory.

18. As a result of the allegation of sexual abuse of Lillian Radecki by Brian Radecki formal investigations began by Houston County, Minnesota authorities.

19. In late 2017 a legal proceeding was begun in the District Court of Houston County, Minnesota for a Child in Need of Protection or Services File # 28-JV-17-793, arising from the allegation of sexual abuse of Lillian Radecki by Brian Radecki.

20. As a result of the legal proceeding and despite a conclusion that "It has not been proven by clear and convincing evidence that the child is a victim of physical or sexual abuse", Lillian Radecki was removed from the home of her family and placed in foster care where she has remained.

21. Despite repeated efforts, Brian and Amy Radecki were unable to establish an enduring relationship with their daughter Lillian Radecki during the remainder of her childhood.

NEGLIGENCE CLAIM AGAINST KATHERINE DAHL

22. The treatment of Lillian Radecki by Katherine Dahl was below the standard of care for her profession for reasons including, but not limited to, her failure to understand and consider how memory works, her failure to consider available information that would demonstrate that Lillian's memories were false memories, her use of hypnotic like procedures in a negligent form and without the proper training, her failure to recognize the suggestive influences to which Lillian Radecki was

exposed, and her failure to recognize and adequately communicate to Lillian Radecki that recovered memories are unreliable.

23. Katherine Dahl's negligence was a cause of damage to the plaintiffs, including the loss of their relationship with their minor child, Lillian Radecki, loss of money to defend against the Houston County case concerning their child in need of protection or services, past and future mental and emotional pain and suffering, past and future loss of enjoyment of life, and other damages to be proven at trial.

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS CLAIM AGAINST
KATHERINE DAHL**

24. Katherine Dahl's negligent treatment of Lillian Radecki, as described above, was a cause of Lillian Radecki's false recovered memory that Brian Radecki raped her at an earlier age.

25. Lillian Radecki informed a number of adults of her belief that Brian Radecki raped her and ultimately caused further investigations of the claim.

26. Plaintiffs became aware of the alleged rape by virtue of a variety statements made by Lillian and by individuals to whom Lillian spoke, including Katherine Dahl.

27. As a result of Katherine Dahl's negligent treatment of Lillian Radecki, plaintiffs have suffered severe emotional distress causing damages to be proven at trial.

CLAIM AGAINST GUNDERSEN CLINIC LTD.

28. At all times material hereto, Katherine Dahl was acting within the scope of her employment with Gundersen Clinic Ltd.

29. Gundersen Clinic Ltd is responsible for the damages to plaintiffs for which the acts of Katherine Dahl were a cause.

30. Additionally, Gundersen Clinic Ltd. is negligent for its failure to adequately supervise Katherine Dahl and such negligence was a cause of damages to the plaintiffs.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand the following relief:

A. An award of damages in favor of plaintiffs and against all defendants for injuries resulting from the negligence of Katherine Dahl and Gundersen Clinic Ltd. as alleged herein.

B. An award of statutory costs and fees.

C. Any further relief the court deems just and proper.

Dated at Monona, Wisconsin this 30th day of October, 2020.

By: /s/William W. Smoler

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